



Cabinet
23 February 2015

**Report from the Strategic Director of
Regeneration and Growth**

For Action

Wards affected:
ALL

**National Non-Domestic Rates – Applications for
Discretionary Rate Relief**

1.0 Summary

- 1.1 The Council has the discretion to award rate relief to charities or non-profit making bodies. It also has the discretion to remit an individual National Non-Domestic Rate (NNDR) liability in whole or in part on the grounds of hardship. The award of discretionary rate relief is based on policy and criteria agreed by the Executive in September 2013. New applications for relief have to be approved by the Cabinet.
- 1.2 The report details new applications for relief received since the Executive last considered such applications on 26 August 2014.

2.0 Recommendations

- 2.1 That the applications for discretionary rate relief detailed in Appendices 2 and 3 to this report be approved.

3.0 Detail

- 3.1 Details of the Council's discretion to grant rate relief to charities, registered community amateur sports clubs and non-profit making organisations are contained in the financial and legal implications' sections (4 and 5).
- 3.2 Appendix 1 sets out the criteria and factors to consider for applications for NNDR relief from Charities and non-profit making organisations. This was agreed by the Executive in September 2013.
- 3.3 Appendix 2 lists new applications from local and non local charities that meet the criteria. These receive 80% mandatory relief, where they meet the criteria the council will award local charities up to 100% discretionary relief in respect of the remaining 20% balance and will award non local charities 25% relief in respect of the remaining 20% balance. It also shows the cost to the Council if discretionary relief is awarded.
- 3.4 Appendix 3 list new applications from non profit making organisations that meet the criteria for awarding relief. As these organisations are not registered charities they do not receive 80% mandatory relief. The Council's usual policy is to award 25% relief to organisations that meet the criteria. It also shows the cost to the Council if discretionary relief is awarded.
- 3.5 The criteria for awarding discretionary rate relief focuses on ensuring that the arrangements are consistent with corporate policies and relief is directed to those organisations providing a recognised valued service to the residents of Brent, particularly the vulnerable and those less able to look after themselves. Further detail is set out in Appendix 1. Should relief be granted entitlement will remain until 31 March 2017 unless there are any changes to the organisation. During 2016/17 it has been agreed that the council will review its criteria for awarding relief.
- 3.6 Charities and registered community amateur sports clubs are entitled to 80% mandatory rate relief and the council has discretion to grant additional relief up to the 100% maximum
- 3.7 Non-profit making organisations do not receive any mandatory relief, but the Council has the discretion to grant rate relief up to the 100% maximum. However the council's policy limits relief for these to 25%

4.0 Financial Implications

Discretionary Rate Relief

- 4.1 Charities and registered community amateur sports clubs receive 80% mandatory rate relief. The Council has the discretion to grant additional relief up to the 100% maximum. Prior to 1 April 2013 75% of the cost of this would have been met by the council, however from 1 April 2013 30% is met by the council with 50% being met by central government and 20% by the GLA.

- 4.2 Non-profit making organisations do not receive any mandatory relief, but the Council has the discretion to grant rate relief up to the 100% maximum. Prior to 1 April 2013 the Council met 25% of the cost of any relief granted, however this has also changed with 30% being met by the council with 50% being met by central government and 20% by the GLA.
- 4.3 The Council, where it has decided to grant relief, has followed a general guideline of granting 100% of the discretionary element to local charities and 25% of the discretionary element to non-local charities. Any additional awards of relief will reduce income to the Council by 30%.
- 4.4 In respect of non profit making organisations the council has agreed where the organisation meets the criteria to award 25% discretionary rate relief. The cost to the council of awarding this relief is 30% of the amounts granted..
- 4.5 The costs therefore of awarding relief to the charitable organisations detailed in Appendix 2 is £1,355.47 for 2014/15. The costs of awarding relief to the non profit making organisation detailed in Appendix 3 is £150.20. This will be reduce the council's projected income from Business Rates Retention in 2014/15.

5.0 Legal Implications

Discretionary Rate relief

- 5.1 Under the Local Government Finance Act 1988, charities are only liable to pay 20% of the NNDR that would otherwise be payable where a property is used wholly or mainly for charitable purposes. This award amounts to 80% mandatory relief of the full amount due. For the purposes of the Act, a charity is an organisation or trust established for charitable purposes, registration with the Charity Commission is conclusive evidence of this. Under the Local Government Act 2003, registered Community Amateur Sports Clubs also qualify for 80% mandatory relief.
- 5.2 The Council has discretion to grant relief of up to 100% of the amount otherwise due to charities, Community Amateur Sports Clubs, and non-profit making organisations meeting criteria set out in the legislation. These criteria cover those whose objects are concerned with philanthropy, religion, education, social welfare, science, literature, the fine arts, or recreation. Guidance has been issued in respect of the exercise of this discretion and authorities are advised to have readily understood policies for deciding whether or not to grant relief and for determining the amount of relief. Details of the current policy are contained in Appendix 1
- 5.3 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 allow Brent to grant the relief for a fixed period. One year's notice is required of any decision to revoke or vary the amount of relief granted, if in the case of a variation, it would result in the amount of rates increasing. The notice must take effect at the end of the financial year.

- 5.4 The operation of blanket decisions to refuse discretionary relief across the board would be susceptible to legal challenge on grounds that the Council would be fettering its discretion. The legal advice provided to officers and Members is that each case should be considered on its merits.

6.0 Diversity Implications

- 6.1 Applications have been received from a wide variety of diverse charities and organisations, and an Impact Needs Analysis Requirement Assessment (INRA) was carried out in 2008 when the criteria were originally agreed. As there were no changes made to the criteria in September 2013 an Equality Impact assessment was not required. All ratepayers receive information with the annual rate bill informing them of the availability of discretionary and hardship rate relief.

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 None

Background Papers

Report to Executive 16 September 2013 – National Non-Domestic Relief – Review of Discretionary Rate Relief Policy

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Appendix 1

ELIGIBILITY CRITERIA FOR APPLICATIONS FOR NNDR DISCRETIONARY RELIEF FOR CHARITIES & FROM NON PROFIT MAKING ORGANISATIONS

Introduction

The following details the criteria against which the Local Authority will consider applications from non profit making organisations. In each case the individual merits of the case will be considered.

- (a) Eligibility criteria**
- (b) Factors to be taken into account**
- (c) Parts of the process.**

(a) Eligibility Criteria

- The applicant must be a charity or exempt from registration as a charity, a non-profit making organisation or registered community amateur sports club (CASC).
- All or part of the property must be occupied for the purpose of one or more institutions or other organisations which are not established or conducted for profit and whose main objects are charitable or otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts; or
- The property must be wholly or mainly used for the purposes of recreation, and all or part of it is occupied for the purposes of a club, society or other organisation not established or conducted for profit.

(b) Factors to be taken into account

The London Borough of Brent is keen to ensure that any relief awarded is justified and directed to those organisations making a valuable contribution to the well-being of local residents. The following factors will therefore be considered:

- a. The organisation should provide facilities that indirectly relieve the authority of the need to do so, or enhance or supplement those that it does provide
- b. The organisation should provide training or education for its members, with schemes for particular groups to develop skills
- c. It should have facilities provided by self-help or grant aid. Use of self-help and / or grant aid is an indicator that the club is more deserving of relief
- d. The organisation should be able to demonstrate a major local contribution.

- e. The organisation should have a clear policy on equal opportunity.
- f. There should be policies on freedom of access and membership.
- g. It should be clear as to which members of the community benefit from the work of the organisation.
- h. Membership should be open to all sections of the community and the majority of members should be Brent residents
- i. If there is a licensed bar as part of the premises, this must not be the principle activity undertaken and should be a minor function in relation to the services provided by the organisation.
- j. The organisation must be properly run and be able to produce a copy of their constitution and fully audited accounts.
- k. The organisation must not have any unauthorised indebtedness to the London Borough of Brent. Rates are due and payable until a claim for discretionary rate relief is heard

(c) Parts of the process

No Right of Appeal

Once the application has been processed, the ratepayer will be notified in writing of the decision. As this is a discretionary power there is no formal appeal process against the Council's decision. However, we will re-consider our decision in the light of any additional points made. If the application is successful and the organisation is awarded discretionary rate relief, it will be applied to the account and an amended bill will be issued.

Notification of Change of Circumstances

Rate payers are required to notify any change of circumstances which may have an impact on the award of discretionary rate relief.

Duration of award

The new policy will award relief to 31 March 2017. Prior to the end of this period applications will be sent inviting recipients to re-apply, this will ensure the conditions on which relief was previously awarded still apply to their organisation. This will help ensure that the Council's rate records remain accurate.

Withdrawal of relief

One years notice has to be given by the Council for the withdrawal of relief

Unlawful activities

Should an applicant in receipt of discretionary rate relief be found guilty of unlawful activities for whatever reason, entitlement will be forfeited from the date of conviction.

	Type of Charitable/Non-Profit Making Organisation	Current Policy
		Discretionary Relief Limited to
1	Local charities meeting required conditions (80% mandatory relief will apply)	20% (100% of remaining liability)
2	Local Non-profit-making organisations (not entitled to mandatory relief)	25%
3	Premises occupied by a Community Amateur Sports Club registered with HM Revenue & Customs. (80% mandatory relief will apply)	20% (100% of remaining liability)
4	Non-Local charities (80% mandatory relief will apply)	25% (of remaining liability)
5	Voluntary Aided Schools (80% mandatory relief will apply)	20% (100% of remaining liability)
6	Foundation Schools (80% mandatory relief will apply)	20% (100% of remaining liability)
7	All empty properties	NIL
8	Offices and Shops occupied by national charities	NIL
9	An organisation which is considered by officers to be improperly run, for what ever reason, including unauthorised indebtedness.	NIL
10	The organisation or facility does not primarily benefit residents of Brent.	NIL
11	Registered Social Landlords (as defined and registered by the Housing Corporation). This includes Abbeyfield, Almshouse, Co-operative, Co-ownership, Hostel, Letting / Hostel, or YMCA.	Nil
12	Organisations in receipt of 80% mandatory relief where local exceptional circumstances are deemed to apply.	Up to 20% (100% of remaining liability)

Appendix 2

New Applications for Discretionary Rate Relief – Local Charities

	100% Relief to be awarded	Charge	Bill net of statutory relief	Cost to Brent at 30%
	<u>Organisation</u>			
33015559	Iraqi Welfare Association 7 Rutherford Way, Wembley HA9 0QD 19/5/2014 – 31/3/2015	£8,372.27	£1,674.45	£502.33
30308015	Brent Citizens Advice Bureau 270-272 High Road Wembley NW10 2EY	£14,219.00	£2,843.80	£853.14
Total		£22,591.27	£4,518.25	£1,355.47

Appendix 3

New Applications for Discretionary Rate Relief – Non Profit Making Organisations

	25% Relief to be awarded	Charge	Amount of relief (25%)	Cost to Brent at 30%
	<u>Organisation</u>			
33023484	Ultra Security Solutions CIC Unit G01, 20 Osram Road East Lane Business park Wembley 1/4/2014 – 31/3/2105 1/6/2013 – 31/3/2014	£1,102.25 £900.35	£275.56 £225.09	£82.67 £67.53
	Total	£2,002.60	£500.65	£150.20